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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

NICO CRUZ, individually, and on behalf of
other members of the general public similarly
situated,

Plaintiff,

vs.

MOHAWK INDUSTRIES, INC., *et al.*,

Defendants.

Case No. 1:20-cv-01510-JLT-EPG

ORDER RE: STIPULATION GRANTING
PLAINTIFF LEAVE TO FILE PROPOSED
FIRST AMENDED CLASS ACTION
COMPLAINT FOR DAMAGES

(ECF No. 37).

Plaintiff Nico Cruz (“Plaintiff”), individually, and on behalf of other members of the
general public similarly situated, and Defendants Mohawk Industries, Inc., Daltille Services,
Inc., Dal-Tile Services, Inc., and Dal-Tile Corporation (collectively, “Defendants”)
(collectively, the “Parties”), by and through their counsel of record, hereby stipulate as follows:

WHEREAS, on September 15, 2020, Plaintiff filed a putative class action complaint in
the above-entitled action against Defendants for violations of the California Labor Code;

WHEREAS, on October 23, 2020, Defendants filed a Notice of Removal and related
documents invoking federal jurisdiction under the Class Action Fairness Act of 2005 (“CAFA”)

1 (Doc. 1);

2 WHEREAS, on November 23, 2020, Plaintiff filed a Notice of Motion and Motion to
3 Remand and related documents (Doc. 7);

4 WHEREAS, on December 30, 2020, Defendant filed a Response in Opposition to
5 Plaintiff's Motion to Remand (Doc. 10);

6 WHEREAS, on September 23, 2021, the Court granted Defendants' request to file
7 supplemental briefing regarding Plaintiff's Motion to Remand (Doc. 12);

8 WHEREAS, on October 22, 2021, Defendants' filed a supplemental brief and related
9 documents in connection with Defendants' Opposition to Plaintiff's Motion to Remand (Doc.
10 14);

11 WHEREAS, on January 10, 2022, the Court denied Plaintiff's Motion to Remand
12 finding Defendants established the amounts in controversy exceeds \$5 million (Doc. 18);

13 WHEREAS, on April 14, 2022, pursuant to Federal Rules of Civil Procedure 26,
14 counsel for Plaintiff and for Defendants met and conferred regarding the amendment to the
15 operative complaint proposed by Plaintiff. Counsel for Defendants has agreed to stipulate to the
16 filing of a First Amended Class Action Complaint for Damages ("First Amended Complaint")
17 to include additional facts supporting the causes of action;

18 WHEREAS; pursuant to this Court's Class Action Scheduling Conference Order, "any
19 motions or stipulations requesting leave to amend the pleadings shall be filed no later than
20 August 22, 2022" (Doc. 31);

21 WHEREAS, by stipulating to the filing of a First Amended Complaint, Defendants do
22 not waive any substantive or procedural rights or defenses it may have to Plaintiff's claims and
23 allegations;

24 WHEREAS, attached hereto as EXHIBIT A is Plaintiff's [Proposed] First Amended
25 Class Action Complaint for Damages

26 IT IS HEREBY STIPULATED AND AGREED BY THE PARTIES HERETO,
27 THROUGH THEIR RESPECTIVE COUNSEL, AS FOLLOWS:

28 1. Plaintiff may file the attached [Proposed] First Amended Class Action Complaint for
Damages.

1 2. Defendants shall have thirty (30) days to file and serve its response to Plaintiff's First
2 Amended Complaint, which time period shall run from the later of the Court's execution
3 of the proposed Order herein, or Plaintiff's filing and service of the First Amended
4 Complaint.

5
6 Dated: August 17, 2022

LAWYERS for JUSTICE, PC

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8 By: /s/ Brittany L. Shaw
9 Edwin Aiwazian
10 Brittany L. Shaw
11 Attorneys for Plaintiffs

12
13 Dated: August 17, 2022

ALSTON & BIRD LLP

14 By: /s/ Ian A. Wright
15 Ian A. Wright
16 Kaitlin H. Owen
17 Attorneys for Defendant
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ORDER

Pursuant to the parties' stipulation (ECF No. 17) granting Plaintiff leave to file the proposed First Amended Class Action Complaint for Damages, IT IS HEREBY ORDERED that Plaintiff shall file the proposed First Amended Class Action Complaint for Damages by August 24, 2022, and that Defendants shall file and serve their response to Plaintiff's First Amended Complaint by September 23, 2022.

IT IS SO ORDERED.

Dated: **August 18, 2022**

/s/ Eric P. Gray
UNITED STATES MAGISTRATE JUDGE